

SUMMARY ANALYSIS OF AMENDED BILL

Franchise Tax Board

Author: Correa Analyst: Roger Lackey Bill Number: AB 339

Related Bills: See Prior Analysis Telephone: 845-3627 Amended Date: May 8, 2001

Attorney: Patrick Kusiak Sponsor: _____

SUBJECT: Net Operating Loss Conformity

DEPARTMENT AMENDMENTS ACCEPTED. Amendments reflect suggestions of previous analysis of bill as introduced/amended _____.

AMENDMENTS IMPACT REVENUE. A new revenue estimate is provided.

AMENDMENTS DID NOT RESOLVE THE DEPARTMENT'S CONCERNS stated in the previous analysis of bill as introduced/amended _____.

FURTHER AMENDMENTS NECESSARY.

☒ DEPARTMENT POSITION CHANGED TO Support.

☒ REMAINDER OF PREVIOUS ANALYSIS OF BILL AS INTRODUCED February 16, 2001, STILL APPLIES.

OTHER - See comments below.

SUMMARY

This bill would conform state law to federal tax law on net operating losses (NOL). However, this bill would not conform to the federal provisions allowing NOLs to be carried back.

SUMMARY OF AMENDMENTS

The May 8, 2001, amendments clarified that this bill would apply to NOLs incurred on or after January 1, 2001. The amendments also clarified that any NOL incurred prior to January 1, 2001, would be allowed to be carried forward in accordance with the laws in effect prior to the operative date of this bill.

As a result of the May 8, 2001, amendments, the implementation consideration discussed in the department's analysis of the bill as introduced February 16, 2001, no longer applies. The unresolved policy considerations are included below for the author's convenience.

Except for the discussion in this analysis, the department's analysis of the bill as introduced February 16, 2001, still applies.

Board Position:

<input checked="" type="checkbox"/> S	<input type="checkbox"/> NA	<input type="checkbox"/> NP
<input type="checkbox"/> SA	<input type="checkbox"/> O	<input type="checkbox"/> NAR
<input type="checkbox"/> N	<input type="checkbox"/> OUA	<input type="checkbox"/> PENDING

Legislative Director

Date

Brian Putler

05/22/01

Position

Support.

At its May 2, 2001, meeting, the Franchise Tax Board voted 2-0 to take a support position on this bill, with Annette Porini, on behalf of Member B. Timothy Gage, abstaining.

ARGUMENTS/POLICY CONCERNS

Tax incentive areas, including Enterprise Zones, Local Agency Military Base Recovery Areas, and the Targeted Tax Area, were primarily created to encourage development in economically disadvantaged areas. This bill would eliminate the more favorable NOL provisions for these areas and substitute rules that place all taxpayers on an equal footing with respect to the treatment of NOLs. Therefore, this bill eliminates one incentive for businesses to locate in these economically disadvantaged areas.

If this bill is not amended to clarify the treatment of disaster losses, the NOL treatment for taxpayers who suffer a disaster loss under current law would be less favorable than the regular NOL treatment. The author may wish to consider amending or eliminating the special treatment under current law for disaster losses.

LEGISLATIVE STAFF CONTACT

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